

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT EARL MANNING,

Defendant-Appellant.

UNPUBLISHED

June 21, 2005

No. 251807

Ingham Circuit Court

LC No. 03-000366-FH

Before: Bandstra, P.J., and Fitzgerald and Meter, JJ.

PER CURIAM.

Defendant appeals as of right his conviction by a jury of assaulting, resisting, and obstructing a police officer, MCL 750.81d(2). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant asserts that there was insufficient evidence to support his conviction.

[W]hen determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. [*People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992).]

“The standard of review is deferential: a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict.” *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

Under the earlier resisting and obstructing statute, MCL 750.479, the elements of the crime were

(1) the defendant resisted arrest, (2) the arrest was lawful, (3) the person arresting the defendant was an officer of the law at the time, (4) the defendant knew the person was an officer, (5) the defendant knew the person was making an arrest, and (6) the defendant intended to resist arrest. [*People v MacLeod*, 254 Mich App 222, 226; 656 NW2d 844 (2002).]

The newer statute, MCL 750.81d, has no reference to a lawful arrest and does not include this element. *People v Ventura*, 262 Mich App 370, 375-376; 686 NW2d 748 (2004). This Court in *Ventura* observed that the statute clearly “states only that an individual who resists a person the individual knows or has reason to know is performing his duties is guilty of a felony.” *Id.* at 376.

Here, there was sufficient evidence to support the conviction. A lawful arrest is no longer an element of the crime under MCL 750.81d. Defendant admitted that he resisted the officer who was attempting to place handcuffs on him. The officer was performing his duty when he attempted to detain defendant on an outstanding warrant.

Additionally, there was sufficient evidence to prove beyond a reasonable doubt that defendant was not acting in self-defense. Self-defense requires an honest and reasonable belief that a person’s life is in danger, or that there is a threat of serious bodily harm. *People v Fortson*, 202 Mich App 13, 19-20; 507 NW2d 763 (1993). There was no basis for finding a reasonable and honest belief that defendant was in danger of serious bodily harm.

Affirmed.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Patrick M. Meter